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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,630	03/16/2004	Martin W. Karabees	713940.1966	2629
27128	7590	06/13/2005	EXAMINER	
BLACKWELL SANDERS PEPER MARTIN LLP			NGUYEN, KIEN T	
720 OLIVE STREET				
SUITE 2400			ART UNIT	
ST. LOUIS, MO 63101			PAPER NUMBER	
			3714	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/708,630	Applicant(s) KARABEES, MARTIN W.	
	Examiner Kien T. Nguyen	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-37, 43-46 and 50-57 is/are allowed.
- 6) ☒ Claim(s) 1-10, 14, 18-22, 38, 39, 41, 42, 47 and 49 is/are rejected.
- 7) ☒ Claim(s) 11-13, 15-17, 40 and 48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 9, 14, 18, 47, 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Croom U.S. Patent 5,509,720.

Croom disclosed a kit comprising a plurality of three-dimensional geometrically shaped members (10, 12, 14, 16, 20); at least some of the shaped members being adapted for use individually to simulate particular furniture item (cushion 20, and seat 12); at least some of the shaped members being adapted to be positioned and repositioned adjacent to other shaped members in a plurality of different configurations to simulate a plurality of furniture items (col. 2, lines 42-44) (claims 1, 14, 47). Each of the shaped members includes a plurality of exterior surfaces, at least some of the surfaces including indicia thereon (claim 5). The indicia are representative of one or more upholstery patterns (alphabet) (claims 6, 18, 49). Some of the shaped members include cooperatively engageable attachment means (22, 24) for removably attaching the members to one another in various adjacent configurations (claim 9).

Claims 1, 2, 9, 10, 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Bach et al U.S. Patent 5,910,037.

Bach et al disclosed a toy building system comprising a plurality of three-dimensional geometrically shaped members (1-4); at least some of the shaped

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members being adapted for use individually to simulate particular furniture item, at least some of the shaped members adapted to be positioned and repositioned adjacent to other shaped members in a plurality of different configurations to simulate a plurality of different furniture items (Figs. 1 and 6) (claim 1). The shaped members includes a plurality of groups of shaped members, each group having at least two similarly shaped members (1, 2) and (3, 4), the shaped members in each group being different from each other (claim 2). At least some of the shaped members include cooperatively engageable attachment means (5, 10) associated respectively therewith for removably attaching the shaped members to one another (claim 9). The shaped members can be arranged to simulate a room with multiple toy furniture items (Figs. 6-8) (claim 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 7, 8, 18-22, 38, 39, 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Croom.

Regarding claims 3, 4, 7, 8, it is noted that Croom failed to show various types of shape member and/or indicia as set forth therein. However, such types of shape members and indicia are considered obvious choices of design to simulate any particular types of furniture. Accordingly, it would have been a matter of design choice

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to modify the shaped members and indicia of Croom with any particular type for the reason as set forth above.

Regarding claims 38 and 39, the disclosure of Croom would constitute the obvious steps of the method for simulating a variety of different toy furniture items as set forth therein.

Regarding claims 18-22, 41, 42, it is also noted that Croom failed to teach the use of at least one wallboard with indicia as set forth therein. However, such wallboard with indicia to simulate a particular room is very well known in the art of doll or play house. Accordingly, it would have been a matter of design choice to provide the kit of Croom with any well-known wallboard to simulate any particular room setting.

Allowable Subject Matter

Claims 11-13, 15-17, 40, 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

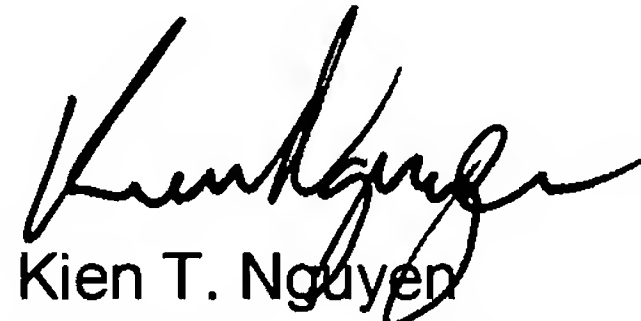
Claims 23-37, 43-46, and 50-57 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kien T. Nguyen
Primary Examiner
Art Unit 3714

Ktn